

Honorable \_\_\_\_\_

Michael McNulty  
United States Department of Justice  
Environment and Natural Resources Division  
Environmental Enforcement Section  
P.O. Box 7611  
Ben Franklin Station  
Washington, D.C. 20044  
(202) 514-1210

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,	)	
	)	CIVIL ACTION NO.
Plaintiff,	)	
	)	C03-5107 FDB
v.	)	
	)	
MARY JANE ANDERSON, ET AL.,	)	
	)	
Defendants.	)	

AMENDMENT TO THE CONSENT DECREE

AMENDMENT TO THE CONSENT DECREE  
Commencement Bay Nearshore/Tideflats  
Superfund Site - C03-5107 FDB

United States Department of Justice  
Environmental & Natural Resources  
Division  
Environmental Enforcement Section

1 WHEREAS, the United States of America, on behalf of the Environmental Protection  
2 Agency (hereinafter “the United States”); the City of Tacoma Environmental Services  
3 Department (Formerly identified as Department of Public Utilities); and Joseph Simon & Sons  
4 are parties to the Consent Decree entered by this Court in this action on February 26, 2003  
5 (hereinafter “the Consent Decree”); and  
6

7  
8 WHEREAS, as reflected in this Amendment, the United States, the City of Tacoma  
9 Environmental Services Department; and Joseph Simon & Sons are “Settling Defendants”  
10 identified in Appendix A of the Consent Decree and have agreed upon certain additional  
11 modifications of the Consent Decree related solely to these Settling Defendants and none of the  
12 other parties to the Consent Decree; and  
13

14 WHEREAS, the City of Tacoma Environmental Services Department (identified as City  
15 of Tacoma Public Works); and Joseph Simon & Sons (identified as Joseph Simon & Sons/R&L)  
16 are among the entities listed on Appendix C of the Consent Decree (the “Appendix C Parties”);  
17 and  
18

19 WHEREAS, the United States expressly reserved the right to recover additional  
20 Response Costs from the Appendix C parties in accordance with paragraphs 6. c. ii) and 24. b.;  
21 and  
22

23  
24 WHEREAS, the Port of Tacoma, Occidental Chemical Corporation, General Metals of  
25 Tacoma, Inc., and Arkema, Inc. (hereinafter” the Performing Parties”) have performed  
26 substantial remedial actions pursuant to other consent decrees entered by this Court that have

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28 Commencement Bay Nearshore/Tideflats  
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United States Department of Justice  
Environmental & Natural Resources  
Division  
Environmental Enforcement Section

1 been funded in part by the previous contributions of the Settling Defendants named in the  
2 Consent Decree; and  
3

4 WHEREAS, the Performing Parties have incurred additional Response Costs above the  
5 cost estimate of \$56,056,407 as identified in Section VI. 6. of the Consent Decree; and  
6

7 WHEREAS, as reserved in paragraph 24. b. and consistent with the formula established  
8 in Appendix C of the Consent Decree, the City of Tacoma Environmental Services Department  
9 and Joseph Simon & Sons each will make additional payments to the Performing Parties, under  
10 separate agreements, to reimburse, in part, their share of additional Response Costs;  
11

12 NOW THEREFORE, the United States, the City of Tacoma Environmental Services  
13 Department; and Joseph Simon & Sons hereby agree that, upon approval of this amendment by  
14 the Court, the Consent Decree shall be amended as follows:  
15

16 **AMENDED AND RESTATED PARTS OF THE CONSENT DECREE**

17 All parts of the Consent Decree shall remain the same and in full effect except for the  
18 addition of paragraph 5.c. and the modification of Appendix C as follows:

19 **VI. PAYMENT**

20 5. c. Within 30 days after the effective date of this Amendment, the City of Tacoma  
21 Environmental Services Department shall pay to EPA \$8,346 (Eight Thousand Three Hundred  
22 Forty-six) in payment for Response Costs. Joseph Simon & Sons shall pay to EPA \$20,587  
23 (Twenty thousand Five Hundred Eighty-seven) in payment for Response Costs. Payment shall  
24 be made in accordance with Paragraphs 5 c. i) and ii). The total amount to be paid by each  
25 Settling Defendant shall be deposited by EPA in the Hylebos Waterway Problem Area Special  
26

27 AMENDMENT TO THE CONSENT DECREE  
28 Commencement Bay Nearshore/Tideflats  
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United States Department of Justice  
Environmental & Natural Resources  
Division  
Environmental Enforcement Section

Account to be retained and used to conduct or finance response actions at or in connection with the CB/NT Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

i) All payments required to be made in accordance with this Paragraph shall be made by Fedwire EFT to:

Federal Reserve Bank of New York

ABA = 021030004

Account = 68010727

SWIFT address = FRNYUS33

33 Liberty Street

New York NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

When making payments under this Paragraph, Settling Defendants shall also comply with sub-Paragraph 5 c. ii).

ii) All payments made under this Paragraph shall reference the CDCS Number, Site/Spill ID Number 102J, and DOJ Case Number 90-11-2-726. At the time of any payment required to be made in accordance with this Paragraph, the City of Tacoma Department of Public Utilities and Joseph Simon & Sons shall send notice that payment has been made to the United States and to EPA as described below, and to the EPA Cincinnati Finance Office by email at [acctsreceivable.cinwd@epa.gov](mailto:acctsreceivable.cinwd@epa.gov), or by mail at 26 Martin Luther King Drive, Cincinnati, Ohio 45268. Such notice shall also reference the CDCS Number, Site/Spill ID Number, and DOJ Case Number. Notice to the United States and EPA shall be made to:

Chief Environmental Enforcement Section  
Environment and Natural Resource Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, D.C. 20044-3986

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Environmental & Natural Resources  
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1 Re: DJ# 90-11-2-726

2 Rick Albright  
3 Director of the Office of Environmental Cleanup  
4 USEPA Region 1200 Sixth Avenue  
5 Mail Code: ECL-117  
6 Seattle, WA 98101  
7 Jonathan Williams  
8 Remedial Project Manager  
9 USEPA Region 10  
10 1200 Sixth Avenue  
11 Mail Code: ECL-111  
12 Seattle, WA 98101  
13

14 APPENDIX C TO THE CONSENT DECREE

15 The City of Tacoma Public Works and Joseph Simon & Sons/R&L shall be removed from the  
16 list of parties in Appendix C to the Consent Decree.

17 SO ORDERED THIS 29<sup>th</sup> DAY OF MAY, 2015.

18 

19 ROBERT J. BRYAN  
20 United States District Judge  
21  
22  
23  
24  
25  
26

27 AMENDMENT TO THE CONSENT DECREE  
28 Commencement Bay Nearshore/Tideflats  
Superfund Site - C03-5107 FDB


United States Department of Justice  
Environmental & Natural Resources  
Division  
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1 THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v.  
2 Mary Jane Anderson, et al., relating to the Hylebos Waterway Problem Areas, within the  
3 Commencement Bay Nearshore/Tideflats Superfund Site in the City of Tacoma, Pierce County,  
4 Washington:

5 **FOR THE UNITED STATES OF AMERICA**

6 JOHN C. CRUDEN  
7 Assistant Attorney General  
8 Environmental and Natural Resources Division  
9 U.S. Department of Justice  
10 Washington, D.C. 20530

11 Date: 5-4-15

12   
13 MICHAEL J. MCNULTY  
14 Senior Counsel  
15 Environmental Enforcement Section  
16 Environmental and Natural Resources Division  
17 United States Department of Justice  
18 P.O. Box 7611  
19 Washington, D.C. 20044  
20 (202) 514-1210

21 ANNETTE L. HAYES  
22 United States Attorney for the  
23 Western District of Washington

24 BRIAN KIPNIS  
25 Assistant United States Attorney  
26 700 Stewart Street  
27 Seattle, WA 98101  
28 (206) 553-7970

AMENDMENT TO THE CONSENT DECREE  
Commencement Bay Nearshore/Tideflats  
Superfund Site - C03-5107 FDB

United States Department of Justice  
Environmental & Natural Resources  
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THE UNDERSIGNED PARTIES enter into this Amendment to the Consent Decree in the matter of United States v. Mary Jane Anderson, C03-5107 FDB, relating to the Hylebos Waterway Problem Areas within the Commencement Bay Nearshore/Tideflats Superfund Site in the City of Tacoma, Pierce County, Washington:

**FOR CITY OF TACOMA  
ENVIRONMENTAL SERVICES  
DEPARTMENT**

Date: 3-12-15



MICHAEL P. SLEVIN III, P.E.  
Director, Environmental Services Department  
747 Market Street, #408  
Tacoma, WA 98402  
(253) 591-5528

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Elizabeth Pauli  
City of Tacoma  
747 Market Street, Suite 100  
Tacoma, Washington 98402  
[epauli@cityoftacoma.org](mailto:epauli@cityoftacoma.org)  
253-591-5627

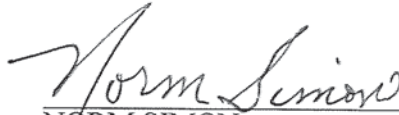
AMENDMENT TO THE CONSENT DECREE  
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Superfund Site - C03-5107 FDB

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1 THE UNDERSIGNED PARTIES enter into this Amendment to the Consent Decree in the matter  
2 of United States v. Mary Jane Anderson, C03-5107 FDB, relating to the Hylebos Waterway  
3 Problem Areas within the Commencement Bay Nearshore/Tideflats Superfund Site in the City of  
Tacoma, Pierce County, Washington:

4 **FOR JOSEPH SIMON & SONS**

5  
6 Date: 3/13/2015



NORM SIMON

Vice President

30 Pt. Fosdick Dr. NW

Gig Harbor, WA 98335

7  
8  
9  
10  
11 Agent Authorized to Accept Service on Behalf of Above-Signed Party:

12  
13 Guy J. Sternal  
14 Eisenhower Carlson PLLC  
15 1200 Wells Fargo Plaza  
16 1201 Pacific Avenue  
17 Tacoma, Washington 98402  
18 gsternal@eisenhowerlaw.com  
19 253-572-4500  
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27 AMENDMENT TO THE CONSENT DECREE  
28 Commencement Bay Nearshore/Tideflats  
Superfund Site - C03-5107 FDB

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Environmental & Natural Resources  
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Environmental Enforcement Section